

REMARKS

This Reply and Amendment is intended to be completely responsive to the non-final Office Action dated September 29, 2005. Claims 1-43 are pending in this Application. Claims 24-43 have been allowed. Claim 1-12 and 16-23 stand rejected, and Claims 13-15 are objected to. Claims 1, 11, 12 and 14-15 have been amended, and claim 13 has been cancelled without prejudice to further prosecution on the merits.

Allowed/Allowable Subject Matter

In Section 10 of the Office Action, the Examiner stated that Claims 24-43 are allowed.

The Applicant thanks the Examiner for the indication of allowed subject matter.

In Section 11 of the Office Action, the Examiner stated that "Claims 13-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The Applicant has amended independent Claim 12 to include the subject matter of dependent Claim 13, and claim 13 has been cancelled without prejudice. Accordingly, the Applicant respectfully requests reconsideration and allowance of independent Claim 12 and dependent Claims 14-23 (as they depend from independent Claim 12 (as amended)).

Claim Rejections 35 U.S.C. § 112 ¶2

In Section 2 of the Office Action, the Examiner rejected dependent Claim 11 as being indefinite under 35 U.S.C. § 112 ¶ 2.

The Applicant has amended dependent Claim 11 to recite (among others) "quick disconnects" in a manner that Applicant believes overcomes the rejection to Claim 11.

Accordingly, the Applicant submits that the rejection of dependent Claim 11 under 35 U.S.C. § 112 ¶ 2 has been overcome and respectfully requests reconsideration and allowance of dependent Claim 11.

Claim Rejections – 35 U.S.C. § 102(b)

Claims 1-10

In Section 5 of the Office Action, the Examiner rejected Claims 1-10 as being anticipated under 35 U.S.C. § 102(b) or in the alternative as being obvious under 35 U.S.C. § 103(a) over U.S. Patent No. 5,440,894 issued to Schaeffer et al. (“Schaeffer et al.”).

Schaeffer et al. discloses “modular refrigeration units 10 strategically [placed] throughout the supermarket in close proximity to the dedicated cooling zone (33) of an associated merchandiser department or case lineup in order to eliminate the traditional machine back room, long piping connections and large refrigerant requirements formerly required” (see col. 6, lines 41-47). In other words, the “modular” nature of Schaeffer et al. is to place external refrigeration units in close proximity to merchandisers that are located throughout a supermarket:

Claim 1 is in independent form and has been amended. Claim 1 (as amended) recites a “modular refrigeration system” comprising, in combination with other elements, a “cooling system providing a coolant to a primary cooling element configured to provide cooling generally throughout the space” and “at least one supplemental modular cooling element configured for placement at any one of a plurality of locations within the space and configured to receive the coolant to provide supplemental cooling at the location within the space.” A “modular refrigeration system” as recited in Claim 1 (as amended) is not disclosed, taught or suggested by Schaeffer et al.

Accordingly, the Applicant submits that the rejection under 35 U.S.C. § 102(b) or in the alternative under 35 U.S.C. § 103(a) has been overcome, and respectfully requests reconsideration and allowance of independent Claim 1 (as amended) and dependent Claims 2-11 (as they depend from independent Claim 1).

Claims 12 and 16-22

In Section 6 of the Office Action, the Examiner rejected Claims 12 and 16-22 as being anticipated under 35 U.S.C. § 102(b) or in the alternative as being obvious under 35 U.S.C. § 103(a) over Schaeffer et al.

Claim 12 is independent form and has been amended. Claim 12 (as amended) recites a “system for customizing a temperature distribution profile within a temperature controlled case for storage and display of food products” comprising, in combination with other elements, a “cooling system having a first heat exchanger in a substantially fixed location and a coolant configured to cool the space” and a “second heat exchanger configured for selective placement at a desired location within the space.” A “system for customizing a temperature distribution profile within a temperature controlled case for storage and display of food products” as recited in Claim 12 (as amended) is not disclosed, taught or suggested by Schaeffer et al.

Accordingly, the Applicant submits that the rejection under 35 U.S.C. § 102(b) or in the alternative under 35 U.S.C. § 103(a) has been overcome, and respectfully requests reconsideration and allowance of independent Claim 12 (as amended) and dependent Claims 16-22 (as they depend from independent Claim 12).

Claims 1-4 and 6-11

In Section 7 of the Office Action, the Examiner rejected Claims 1-4 and 6-11 as being anticipated under 35 U.S.C. § 102(b) or in the alternative as being obvious under 35 U.S.C. § 103(a) over U.S. Patent No. 5,440,894 issued to Wolff et al. (“Wolff et al.”).

Wolff et al. discloses the “use of plural modular evaporator coil sections 22 in lieu of conventional full length coils” for the evaporator in the case (see col. 4, lines 40-41). For example, Wolff et al. explains that “display cases are generally fabricated in standard eight (8’) foot and twelve (12’) foot lengths” and “the modular evaporator coils 22” are “preferably standardized in four (4’) foot lengths” (see col. 3, lines 37-38 and col. 5, lines 12-15).

Claim 1 is in independent form and has been amended. Claim 1 (as amended) recites a “modular refrigeration system” comprising, in combination with other elements, a “cooling system providing a coolant to a primary cooling element configured to provide cooling generally throughout the space” and “at least one supplemental modular cooling element configured for placement at any one of a plurality of locations within the space and configured to receive the coolant to provide supplemental cooling at the location within the space.” A “modular refrigeration system” as recited in Claim 1 (as amended) is not disclosed, taught or suggested by Wolff et al.

Accordingly, the Applicant submits that the rejection under 35 U.S.C. § 102(b) or in the alternative under 35 U.S.C. § 103(a) has been overcome, and respectfully requests reconsideration and allowance of independent Claim 1 (as amended) and dependent Claims 2-4 and 6-11 (as they depend from independent Claim 1).

Claim Rejections - 35 U.S.C. § 103(a)

In Section 9 of the Office Action, the Examiner rejected Claim 23 under 35 U.S.C. § 103(a) as being unpatentable over Schaeffer et al. in view of either U.S. Patent No. 4,501,126 issued to Norton (“Norton”) or U.S. Patent No. 4,493,010 issued to Morrison et al. (“Morrison et al.”).

Dependent Claim 23 depends from independent Claim 12 (as amended). As previously stated, independent Claim 12 has been amended and recites a combination of subject matter that the Applicant believes is allowable in view of the cited references.

Accordingly, the Applicant submits that dependent Claim 23 is patentable under 35 U.S.C. § 103(a) and respectfully requests reconsideration and allowance of dependent Claims 23 (see 35 U.S.C. § 112 ¶ 4).

* * *

The Applicant respectfully submits that all outstanding rejections to the claims have been overcome and that the Application is in condition for allowance. The Applicant respectfully requests reconsideration and allowance of Claims 1-12 and 14-23. Claims 24-43 have previously been allowed. Dependent Claim 13 has been cancelled without prejudice.

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The Examiner is invited to contact the undersigned by telephone if the Examiner believes that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447. If any extensions of time are needed for timely acceptance of papers submitted herewith, the Applicant hereby petitions for such extension under 37 C.F.R. § 1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1447.

Respectfully submitted,

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